

REMARKS

Claims 1-13 are all the claims pending in the application. Claim 13 was inadvertently omitted in the last response. In the subject response, claim 13 has been included above.

With respect to the objections of claim 12, claim 12 has been amended so that it is no longer in multiply dependent form. Thus, it is submitted that the claim objections have been overcome.

Claims 1-3 and 9-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leo '283 (U.S. Patent No. 5,419,283) in view of Denesuk (U.S. Patent No. 6,178,922) and Day, et al. (U.S. Patent No. 6,926,916). Further, claim 4, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Leo '283 in view of Denesuk and Day, et al., as applied to claim 1 and further in view of Leo '390 (U.S. Patent No. 5,391,390). Still further, claims 5, 6 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leo '283 in view of Denesuk and Day, et al., as applied to claim 1 above, and further in view of Axelrod (U.S. Patent No. 6,586,027). Finally, claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Leo '283 in view of Denesuk and Day, et al. as applied to claim 1 and further in view of Stookey (U.S. Patent No. 5,618,518). For the following reasons, Applicants respectfully traverse the Examiner's rejections.

By way of this Amendment, and without prejudice, Applicant has amended independent claim 1 to include the limitations of dependent claims 5 and 6. Applicant has made this amendment in an effort to advance prosecution. For the following reasons, it is respectfully submitted that independent claim 1 and its respective dependent claims patentably distinguish over all of the prior art cited by the Examiner. Indeed, it is submitted that the prior art does not

teach or suggest the chewable toy for an animal having the unique combination of elements recited in claim 1.

Turning to the outstanding Office Action, Applicant respectfully submits that the Examiner has made a number of statements and conclusions which are simply not supported by the objective teachings of the prior art.

In more detail, on page 3, last paragraph, the Examiner asserts that "Leo teaches the addition of edible lubricants of polyhydric alcohols (Leo col. 1, line 55-57)", so as this citation would render obvious the use of isomalt, which is a polyhydric alcohol. This argument is moot, since the Examiner did not correctly read the cited passage of Leo. It actually reads indeed "edible lubricants comprising mono-, di- and tri-esters of edible polyhydric alcohols with edible higher fatty acids". This passage thus teaches the use of esters, and not of polyhydric alcohols, such as isomalt, whose use is suggested solely for the formation of more complex chemical compounds. i.e. esters. In fact, isomalt is not even a lubricant. Hence, the above-cited passage of Leo would have not at all induced the skilled in the art to use isomalt, but would rather teach him away therefrom, since it suggested the use of a different class of compounds, namely esters and not alcohols.

On page 4, first paragraph, the Examiner asserts that "it would have been obvious to one of ordinary skill in the art to further modify the teachings of Leo with the teachings of Day". This argument is incorrect, since Day refers to chewing gums comprising necessarily either a polymeric surface active agent (see e.g. abstract and claim 1) or a polyphosphate (see abstract and claim 13), which are absent in the pet toy of the present invention (which kind of articles are not even hinted at by Day, as already emphasized). Hence, it is plain that the present invention cannot be considered as obvious in view of the basis of the teachings of Day, since the skilled in

the art could have taken therefrom at most the suggestion of using isomalt solely in combination with a polymeric surface active agent or a polyphosphate in a chewing gum composition.

Hence, the rejection of claims 1-3 and 9-11 which is based on the above assumptions is fully unfounded.

On page 6, last paragraph, the Examiner asserts that "Axelrod teaches the combination of starch and polymers and rawhide in combination for forming a pet chew toy" in order to refute the patentability of claims 6 and 7 of the present application. However, more exactly, both the abstract and col. 2, lines 19-26 of Axelrod are adamant in affirming that rawhide must be combined with denatured and partially hydrolized collagen, which latter ingredient is absent in the presently claimed combination. Hence, it is plain that the present invention cannot be considered as obvious on the basis of the teachings of Axelrod, since the skilled in the art could have taken therefrom at most the suggestion of using starch and rawhide together solely in combination with denatured and partially hydrolized collagen.

Hence, also the rejection of claim 6 (which has been incorporated into claim 1) and claim 7 which is based on the above assumptions is fully unfounded.

On page 7, first full paragraph, the Examiner asserts that "Axelrod teaches that chestnut is used as a known herbal addition to a pet chew" in order to refute the patentability of claim 5 of the present application. However, claim 5 (incorporated into claim 1) refers to the addition of "chestnut flour", which is obtained from the fruit of chestnut and not the herbal portion thereof. Furthermore, the Examiner qualifies the chestnut as a mere "flavoring agent to enhance animals attention to the toy", but this is not the case of the chestnut flour of the present invention. On page 4, second paragraph from the bottom of the present description, the energy value of the chestnut flour is indeed emphasized, so as it is irrefutable that it cannot be assimilated to a

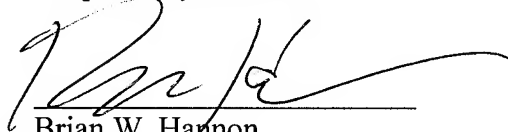
flavoring agent -, as the Examiner does - but it has per se a substantive nutritive value. Hence, the subject-matter of claim 5 (now included in claim 1) is not anticipated by Axelrod, so as also this claim should be allowable.

In view of the foregoing, it is submitted that the Examiner's obviousness determination is simply unsupported by the objective teachings of the prior art. Thus, it is submitted that the unique combination of the elements is recited in claim 1 is not taught or suggested by the prior art. Thus, it is submitted that claim 1 is patentable over the cited art. Furthermore, dependent claims are patentable based on their dependency of claim 1 and based on the limitations contained therein.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance. It is therefore respectfully requested that the application be passed to issuance at the earliest possible convenience. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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